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12 February 1986

NOTE FOR: Bob Gates, C/NIC

FROM: Graham E. Fuller, VC/NIC

SUBJECT: NIO/CT's Prosecution of Terrorists Memorandum

Bob,

1. I have a lot of problems with this memorandum. Put bluntly I find the idea of prosecution of Hizballah as a terrorist organization under American law not to be living in the real world.

- I know we must think creatively about the terrible scourge of terrorism.
- There is no doubt that Hizballah comprises some very bad guys indeed.
- Action both preventive and punitive will have to be taken by the US under appropriate circumstances.

2. But Hizballah is culturally an integral--and definitely non-attractive--side of Middle East life. Its main purpose in life is not terrorism. It has serious, finite and even achievable political goals in mind which are hostile to us but are very understandable by Middle East standards. I find the idea of prosecuting Hizballah to be about as realistic as declaring the Soviet Union illegal.

3. If we want to identify terrorist groups and punish them as such, there are organization which do qualify as largely terrorist in nature: Abu Nidal, Red Army, Action Directe, etc.

4. I find it no more reasonable to declare Hizballah outside the law then to apply the same criteria to other political parties around the world whom we dislike and who don't shrink from terrorism either. Almost any Communist party would fall into this category.

5. To declare war against Hizballah is to declare war against Shia Islam as a whole. I feel it would open the US to world ridicule in attempting to stop the expression of powerful regional political emotions which we find distasteful. Our enemies would have a field day against us in the Middle East and elsewhere if we took such a position.

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-- This is not to say we cannot capture or punish Hizballah terrorists. I do not even argue that we need total smoking guns or court-proof evidence, but we must go after the perpetrators in general rather than an organization like this in particular.

6. I would almost rather the US simply took the law into its own hands without any legal justification to shoot down known terrorists without benefit of legal process. But when I read about the US versus New York Central Railroad or the US versus Union Supply Co. as precedent for a position on events taking place in distant turbulent wildly different cultures, I feel a deep note of unreality is creeping into our conceptualization of this process.

7. Let's take action against terrorists but not take Canute-like legal positions that will win us ridicule across most of this country and everywhere abroad.



Graham E. Fuller

cc: NIO/CT
VC/NIC (Hal Ford)

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